HONOURABLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HONOURABLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No.1148 OF 2006

Between:

Alasapuri Sandya and others. …Appellants

And

Government of Andhra Pradesh,
represented by its Secretary,
Municipal Administration and Urban
Development Department, Secretariat,
Hyderabad and others. …Respondents

:: **J U D G M E N T** ::

Counsel for the appellants : Sri A.Bhuvanasundar Reddy
for Sri V.Ajay Kumar.

Counsel for respondent Nos.1 and 3 : Government Pleader for
Municipal Administration.

Counsel for respondent No.2 : None.

Counsel for respondent Nos.4 to 6 : None.

Counsel for respondent Nos.7 and 8 : None.

13th November 2006

Per G.S.SINGHVI, C.J.

This appeal is directed against order dated 30th August, 2005 passed by the learned Single Judge in WVMP.Nos.602 and 1478 of 2003 and 2442 of 2005, whereby he vacated the ad interim order dated 5-11-2002.

In the writ petition filed by them, the appellants have questioned the legality of notification dated 13-8-2002 to the extent of variation of 50 ft. wide Master Plan road in the General Town Planning Scheme of Suryapet Municipality. They have further prayed for quashing G.O.Ms.No.397 dated 2-9-2002 vide which the State Government confirmed the draft variations. Along with the writ petition, the appellants filed WPMP No.27589 of 2002 for staying the implementation of the notification and G.O. impugned in the writ petition. By an ad-interim order dated 5-11-2002, the learned Single Judge stayed the implementation of the variation in the Master Plan of the General Town Planning Scheme of Suryapet Municipality.

On receipt of notice of the writ petition and stay petition, the Municipal Commissioner of Suryapet filed counter-affidavit to contest the main petition. He also filed miscellaneous petition for vacating the ad-interim order. Shri S. Ranga Reddy, A. Jayamma and A. Krishna Murthy filed two miscellaneous petitions for their impleadment as parties to the writ petition and also for vacating the ad-interim order. Similarly, Shri Nookala Vanaja and Sankarishetty Eshwaramma filed two petitions for their impleadment as party respondents and for vacating the ad-interim order. In the affidavit filed by him, Shri S.A.

Khader Saheb, Municipal Commissioner of Suryapet pleaded that draft variation was published in Andhra Pradesh Gazette and separate notices were given to the affected persons. He also pleaded that no objection had been filed by any of the aggrieved persons and, therefore, the draft variation was finalized.

After considering the rival pleadings and arguments, the learned Single Judge vacated the ad-interim order.

Sri A.Bhuvanasundar made strenuous efforts to persuade us to apply the doctrine of promissory estoppel and restrain the official respondents from implementing the variation in the scheme notified vide G.O.Ms.No.397, dated 2-9-2002 by arguing that the appellants had purchased land and constructed houses keeping in view the approved Master Plan. He further argued that the finding recorded by the learned Single Judge that final notification dated 2-9-2002 was issued by the State Government after giving due opportunity to the interested persons to submit objections is not supported by the material placed on record and, therefore, the same is liable to be ignored.

We have considered the submissions of the learned counsel, but have not felt impressed. The writ petitioners (appellants herein) have not placed any material before the Court to controvert the assertion contained in the counter affidavits filed on behalf of the municipality and the impleaded respondents that final notification was issued after giving due opportunity to the interested persons to file objections pursuant to notification dated 13-8-2002. Therefore, the bald assertion contained in the affidavit filed by appellant No.1 that draft notification dated 13-8-2002 was not published in accordance with law, cannot be accepted for the purpose of staying the implementation of the final notification.

We are further of the view that even if the final notification is shown to be vitiated due to technical violation of the provision relating

to publication of draft notification, there can be no justification to stultify the implementation of the final notification because any such order is bound to affect an unknown number of persons, who are not parties to the writ petition. The balance of convenience is also not in favour of stalling the implementation of final notification. That apart, the elements of irreparable injury and public interest are also against the grant of interim injunction on the implementation of the finally approved variation in the Master Plan.

For the reasons mentioned above, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP (SR) No.137200 of 2005 filed by the appellants for interim relief is also dismissed.

G.S.SINGHVI, C.J.

13th November, 2006.

C.V.NAGARJUNA REDDY, J.

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